



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/487,312	06/07/95	MILLER	2000-0160.04

18N2/1208  
MORRISON AND FOERSTER  
2000 PENNSYLVANIA AVENUE NW  
SUITE 5500  
WASHINGTON DC 20006-1888

EXAMINER

SACUD, C

ART UNIT PAPER NUMBER

1812

DATE MAILED: 12/08/97

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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22

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

This communication is in response to Appellant's communication filed 17 November 1997. Appellant's request for reconsideration has been granted, however, the reply brief filed 15 October 1997 will still not be entered.

Appellant is correct that Interference no. 103,925 should be included in Appellant's Brief. If this information is submitted in a separate reply brief, it will be entered into the instant application. The reply brief which was submitted 15 October 1997 will not be entered because it contains arguments which are not directed to new points of argument raised in the examiner's answer.

With regard to the issue of FDA regulations, this was an issue which was raised by Appellant in the Brief filed 18 June 1997. 37 CFR 1.193 (b) states that "appellant may file a reply brief directed only to such new points of argument as may be raised in the examiner's answer" (emphasis added). However, Appellant concedes

that the FDA issue was, "indeed", raised in the appellant's Brief. Therefore, this issue was not raised in the Examiner's answer, but rather rebutted in the Examiner's answer. 37 CFR 1.193 (b) also states that if the examiner determines that the reply brief is not directed only to new points of argument raised in the examiner's answer, the examiner may refuse entry of the reply brief and will so notify the appellant, as was done in paper #20.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Saoud, Ph.D., whose telephone number is (703) 305-7519. The examiner can normally be reached on Monday to Thursday from 8AM to 4PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Walsh, can be reached on (703) 308-2957. The fax phone number for this Group is (703) 308-0294.

Official papers filed by fax should be directed to (703) 308-4227. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

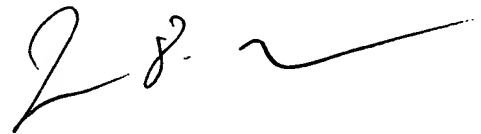
Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [stephen.walsh@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Christine Saoud, Ph.D.  
December 4, 1997

CS



JOHN ULM  
PRIMARY EXAMINER  
GROUP 1800